

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH -I**

CP(IB)No. 79/MB/2024

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 4 of the
Insolvency and Bankruptcy (Rule 4 of the
Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016

In the matter of

Shri Salasar Agro Processor

Having its registered office at
1/3, Anaj Bazar, Opp. Amardeep Itwari.
Nagpur, Maharashtra-440008.

.....**Applicant/
Financial Creditor**

Versus

Unique Agro Processors India Ltd.

[CIN: U9999MH1992PLC069971]

Shiv Smruti, K-16 Bharat Nagar, Amravati Road,
Nagpur, Maharashtra, india-440033.

.....**Corporate Debtor/
Respondent**

Order Delivered on : 21.03.2024

Coram:

Hon'ble Member (Judicial) : Justice V.G. Bisht, (Retd.)

Hon'ble Member (Technical) : Sh. Prabhat Kumar

Appearances:

For the Financial Creditor : Yahya Batatawala, Advocate

For the Corporate Debtor : Gurdeep Singh Sachar, Advocate

ORDER

Per: Sh. Prabhat Kumar (Technical)

1. This Company Petition has been filed by **Shri Salasar Agro Processors** ("**Financial Creditor**"), a non-banking finance company is seeking to initiate Corporate Insolvency Resolution Process ("**CIRP**") against **Unique Agro Processors**. ("**Corporate Debtor**") by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for having committed a default in repayment of outstanding debt of INR 3,51,77,439.00/- (Rupees Three Crore Fifty One Lakh Seventy Seven Thousand Four Hundred Thirty Nine Rupees Only) which was due as on 31.12.2023 and the date of default is 10.01.2024.
2. The Financial Creditor was incorporated on 07.09.2013, and the registered office is situated at 1/3, Anaj Bazar, Opp.Amardeep, Itwari, Nagpur, Maharashtra-440008.

Submissions made by the Financial Creditor:

3. The Financial Creditor Submits that in and around 10.12.2013 Financial Creditor agreed to provide financial assistance to Corporate Debtor on the Condition that the same will be repaid whenever demanded.
4. The Financial Creditor Submits that Corporate Debtor was declared as sick Industrial Company under Section 3(1) (o) of the sick Industrial Companies (Special Provisions) Act,1985 by the Hon'ble Board for Industrial and Financial Reconstruction (BIFR), new Delhi vide order dated 16.03.2000 in case No.316 of 1998.
5. The Corporate Debtor from time to time acknowledged the confirmation of accounts from the Financial Year 2013-14 to 2022-23.

6. The Financial creditor Submits that despite all the efforts made by him to retrieve the loan amount, the corporate debtor didn't pay any heed and the outstanding balance repayment is yet to cleared by the Corporate Debtor.
7. The Financial Creditor further contest that left with no other option thus by a way of demand notice dated 09.01.2024 recall to pay the entire sanction amount of Rs. 3,51,77,439/- (Rupees Three Crore Fifty-One Lakh Seventy-Seven Thousand Four Hundred Only).
8. The Financial Creditor Submits that the present debt is a continuing default and the Corporate Debtor has time and again acknowledged the debt vide the confirmation of accounts in respect of accounts from Financial Year 2013-14 to Financial year 2022-23 as well as in the Balance Sheets for the Financial Year 2015-2016 to Financial 2021-22 regarding the amount liable to be paid to the Financial creditor. The Outstanding balance as on 31.12.2023 stands at Rs.3,51,77,439/-
9. The Financial Creditor submits that from the Balance sheet year 2015-16 to Financial year 2021-22 the record of unsecured loan balances due towards the Financial Creditor remains unpaid.

Submissions made by the Corporate Debtor:

10. The Corporate Debtor submits that the Company had been effectively carrying out its business till the crisis of Covid-19 Pandemic. The Company of the Corporate Debtor suffered liquidity crisis post Pandemic.
11. The Corporate Debtor states that they have been declared as sick Industrial Company under Section 3(1) (o) of the sick Industrial Companies (Special Provisions) Act,1985 by the Hon'ble Board for Industrial and Financial Reconstruction (BIFR), new Delhi vide order dated 16.03.2000 in case No.316 of 1998.

12. The Corporate Debtor through the email dated 23.02.2024 extended an offer of settlement in the sum of Rs.1,50,00,000(Rupees One Crore Fifty Lakh Only) representing full and final settlement amount towards the dues, further it was proposed that the aforementioned sum shall be disbursed in a series of 10 EMI.
13. The Corporate Debtor submits that they are currently in discussions with few investors who have shown interest in buying the shareholding of the Corporate Debtor which would make it easier for the Corporate Debtor to run the affairs and management in a proper manner and the Corporate Debtor would be in a better position to make payments towards the outstanding loan amount to the Petitioner.

Findings

14. Heard learned counsel for both the parties and perused the material on record.
15. We find that the Corporate Debtor has and has also failed to repay the outstanding amount due. The Petitioner issued a Demand Notice dated 09.01.2024 and recalled the entire loan amount being a sum of INR 3,51,77,439 /- (Rupees Three Crore Fifty-One Lakh Seventy-Seven Thousand Four Hundred Thirty-Nine Rupees Only). The Payment was due as on 31.12.2023.
16. The Corporate Debtor, via an email dated 23.02.2024, extended a settlement offer totaling Rs. 1,50,00,000 (Rupees One Crore Fifty Lakh Only) as a full and final settlement amount for the dues. Additionally, it was proposed that this sum would be disbursed in a series of 10 EMIs. However, during oral arguments, the Financial Creditor rejected the Corporate Debtor's proposal.
17. The Corporate Debtor acknowledges the ramifications of the financial crisis, which have left it unable to fulfill its outstanding debt obligations

to the Financial Creditor. The Corporate Debtor asserts that its business operations remained robust until the advent of the COVID-19 Pandemic. Despite facing liquidity challenges in the pandemic's aftermath, the company diligently maintained operational efficiency until very recently.

18. From perusal of the record and the documents relied upon by the Applicant it stands proved that there has been a financial debt in respect of which default has been committed by the Corporate Debtor and further that the Application has been filed within the period of limitation. Therefore, the Application u/s 7 of the Code, deserves to be admitted. It is ordered accordingly in the following terms:

ORDER

- a. The petition bearing CP (IB) 79/MB/C-I/2024 filed by **Shri Salasar Agro Processors**, the Financial Creditors, under Section 7 of the Code read with Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process against **Unique Agro Processors India Ltd.** the Corporate Debtor, is admitted.
- b. This Bench hereby **appoints Neehal Mahamulal Pathan, Registration No: IBBI/IPA-001/IP-P01561/2018-2019/12406 as the Interim Resolution Professional** having email: - caneehalpathan@gmail.com , to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - i. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

- ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- d. Notwithstanding the above, during the period of moratorium: -
- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - ii. That the provisions of Sub-Section (1) of Section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- e. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under Sub-Section (1) of Section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- f. Public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code read with Regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- g. The Financial Creditor shall deposit an amount of **Rs. Three Lakhs** towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

- h. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 of the Code. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- i. The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by speed post and email immediately, and in any case, not later than two days from the date of this Order.
- j. IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

SH. PRABHAT KUMAR
Member (Technical)

SR

Sd/-

JUSTICE V.G. BISHT
Member (Judicial)